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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,124	07/24/2006	Manfred Weber	29827/42210	3095
4743 7590 01/20/2010 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER SALVATORE, LYNDIA	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 01/20/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,124	<b>Applicant(s)</b> WEBER ET AL.	
	<b>Examiner</b> LYNDA M. SALVATORE	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-8, 10-16, 19-24 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment and accompanying remarks filed 9/29/09 have been fully considered and entered. Claim 7 has been amended, claims 6, 17-18 are canceled and new claims 22-24 have been added as requested. Applicant's remarks are found persuasive to overcome the obviousness type rejections set forth in section 4 of the Office Action dated 6/11/09. As such, these rejections are hereby withdrawn. However, upon further consideration the following new ground of rejection is set forth herein below.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 15, 16 and 21 is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5,7-8,10,12,14 and 22-24 rejected under 35 U.S.C. 102(b) as being anticipated by Burgert et al., US 5,629,377.

The patent issued to Burgert et al teach an absorbent composite comprising water absorbent resin particles formed from 70-99.9 % unsaturated carboxyl monomers and .1-5 of a cross-linking agent (abstract and column 2, 25-45). Burgert et al., teach a

polymerization emulsion process comprising an organic solvent such as cyclohexane (column 9, 55-65). Said unsaturated monomers are neutralized prior to polymerization (column 9, 25-45). Suitable carboxylic acids include monomers and comonomers of vinyl pyrrolidone and vinyl sulphonic acid, acrylamide, acrylonitrile or a polyvinyl alcohol (column 55-69). Suitable cross-linking agents include tripropylene glycol (column 5, 25-35). Burgert et al., teach curing at a temperature ranging from 170-250° C (column 2, 35-45).

With regard to the solid supporting material, Burgert et al., teach mixing the water absorbent resin particles with fibers or affixing them to a woven, non-woven or film substrate (13, 40-65 and column 14, 1-35). Suitable fibers include synthetic fibers (column 13, 40-65).

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 11, 13, 15, 16, 19, 20 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Burgert et al., US 5,629,377.

With regard to claims 11 and 21, Burgert et al., does not teach the claimed cross-linking agent or organic solvent, however, it is the position of the Examiner that absent unexpected results it would be obvious to one having ordinary skill in the art at the time the invention was made to employ the claimed cross-linking agent or organic solvent as a function of availability, cost and/or ease of processing. There doesn't appear to be

anything particularly novel with respect to the claimed diepoxide and mineral oil components. Applicant is invited to evidence otherwise.

With regard to claim 13, Burgert et al., does not teach the claimed how the water absorbent resin particles are contacted with or affixed to the solid supporting material, however, it is the position of the Examiner that the claimed contacting methods of coating, impregnating, padding, foaming or spraying methods are commonly known application methods. A skilled worker in the art would readily recognize and select any of those application methods as a way to mix or affix the water absorbent particles to the solid supporting material.

With regard to claims 15-16, Burgert et al., does not teach the claimed close-out but does teach positioning the water absorbent particles between two synthetic fibrous layers or polymeric film layers (column 14, 5-20). Though, Burgert et al., does not specifically teach that said layer are plastic, however such synthetic polymeric layers are commonly formed from thermoplastic materials. As such, the Examiner considers the limitation of "plastic" met. Thus, it is the position of the Examiner that since Burgert et al., presently meets the chemical and structural limitation set forth, the article of Burgert et al., could function in the desired capacity as a close-out. Applicant is invited to prove otherwise.

With regard to claims 19 and 20, Burgert et al., does not teach the intended use as a sealing material for a cable sheath, however, it is the position of the Examiner that since Burgert et al., presently meets the chemical and structural limitations, the article fo

Art Unit: 1794

Burgert et al., could function in the desired capacity as a sealing material for a cable sheath. Applicant is invited to prove otherwise.

***Allowable Subject Matter***

7. Claim 9 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Presently there is no known prior art which teach or fairly suggest the limitation of wherein the polymeric material further comprises a granular superabsorbent based on partially neutralized cross-linked polyacrylic acid.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYNDA M. SALVATORE whose telephone number is (571)272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hendricks Keith can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 15<sup>th</sup>, 2010  
Art Unit 1794

/Lynda Salvatore/  
Primary Examiner